

HOUSE BILL 2806

By Sontany

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 11, Part 7 and Title 39, Chapter 12, Part 2, relative to forfeiture of real property involved in illegal activity.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-703, is amended by adding the following language as new subsection (c):

(c) Any real property used to commit a violation of §39-14-203(a) is subject to judicial forfeiture, and all right, title, and interest in any such property shall vest in the state upon commission of the act giving rise to forfeiture, provided the owner of such property knew or should have known of the violation.

SECTION 2. Tennessee Code Annotated, Section 39-11-704, is amended by deleting the present language in its entirety and by substituting instead the following language:

§39-11-704.

(a) No interest in any property described in 39-11-703(a) or (b) shall be subject to forfeiture when one (1) of the following conditions is established:

(1) If the owner or interest holder acquired the property before the conduct alleged to give rise to its forfeiture;

(2) If the owner or interest holder acquired the property during or after the conduct alleged to give rise to its forfeiture, and the owner or interest holder acquired this interest as a good faith purchaser for value, or acquired this interest in a commercially reasonable manner, and the owner or interest holder:

(A) Acted reasonably to prevent the conduct giving rise to forfeiture; or

(B) Did not know of the acts giving rise to forfeiture.

(b) No interest in any property described in §39-11-703(c) shall be subject to forfeiture when one (1) of the following conditions is established:

(1) If the violation of §39-14-203(a) was committed without the knowledge or consent of the owner or interest holder of the property;

(2) If the owner or interest holder acquired the property after the conduct alleged to give rise to its forfeiture, and the owner or interest holder acquired this interest as a good faith purchaser for value, or acquired this interest in a commercially reasonable manner, and the owner or interest holder:

(A) Acted reasonably to prevent the conduct giving rise to forfeiture; or

(B) Did not know of the acts giving rise to forfeiture.

(c) The state may stipulate that the interest of an owner or interest holder is exempt from forfeiture upon presentation of proof of the claim. The state shall file the stipulation with the court exercising jurisdiction over the forfeiture action and the filing of stipulation shall constitute an admission by the state that the interest is exempt from forfeiture. If a stipulation is submitted, then no further claim, answer or pleading shall be required of the stipulated owner or interest holder, and a judgment shall be entered exempting that interest from forfeiture.

(d) If equipment and fixtures are seized while in possession of someone other than the owner, or are on premises that are padlocked and the owner of the equipment and fixtures has no interest in the padlocked premises, then the owner may obtain return of the equipment and fixtures, if the owner:

(1) Did not know of the act giving rise to forfeiture; or

(2) Acted reasonably to prevent the conduct giving rise to forfeiture.

SECTION 3. This act shall take effect July 1, 2008, the public welfare requiring it.

